

## **Remarks**

Claims 1-60 remain pending in the application and currently stand rejected. Claims 1, 21 and 41 are amended herein. The Assignee respectfully traverses the rejections and requests allowance of claims 1-60.

## **Claim Amendments**

Claim 1 is amended to clarify that the referenced channel information describes “*actual* use of each of a plurality of channels in the broadband wireless system by each of a plurality of users.” (Emphasis supplied.) Claims 21 and 41 are amended in a similar fashion. This amendment is supported in the present application at page 34, lines 26-28, and at Fig. 16, in conjunction with page 37, lines 1-21.

## **Information Disclosure Statement**

Enclosed is an information disclosure statement listing references cited during prosecution of currently-pending U.S. Patent Application No. 09/981,172, entitled PROBE DEVICE MANAGEMENT FOR TESTING A BROADBAND WIRELESS SYSTEM, filed with the Office on the same day as the present application, and assigned to the Assignee.

## **Claim Rejections Under 35 U.S.C. §§ 102 and 103**

Claims 1-9, 13-29, 33-49 and 53-60 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,377,562 to Schneider (hereinafter “Schneider”). (Page 2 of the final Office action.) Also, claims 10-12, 30-32 and 50-52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schneider in view of U.S. Patent No. 6,411,606 to Moura et al. (Page 4 of the final Office action.) The Assignee respectfully traverses the rejections in light of the current amendments to claims 1, 21 and 41, and in view of the following discussion.

## ***Claims 1, 21 and 41***

Independent method claim 1 is reproduced below, with emphasis supplied:

1. A method of operating a probe device in a broadband wireless system, the method

comprising:  
    receiving a message;  
    processing the message to determine *channel information describing actual use of each of a plurality of channels in the broadband wireless system by each of a plurality of users*; and  
    storing the channel information in a memory in the probe device.

Independent software product claim 21 and independent probe device claim 41 each incorporates similar provisions.

The final Office action indicates that Schneider teaches each of the elements of claims 1, 21 and 41. (Pages 2 and 3 of the final Office action.) For example, the final Office action states that “processing the message to determine channel information describing use of each of a plurality of channels in the broadband wireless system by each of a plurality of users” is shown in Schneider at column 5, lines 8-49 (“data recovery from signals received from the bandpass filter by processor 32 in accordance with the particular cellular communication utilized”). (Page 3 of the final Office action.) Also, the final Office action indicates that “storing the channel information in a memory of the probe device” is described in Schneider at column 8, lines 11-16 (“[q]uality of service subscription data including schedules being stored in the memory of the quality of service processor 36”). (Page 3 of the final Office action.) In response, the Assignee respectfully asserts that Schneider does not teach or suggest the provisions of amended claims 1, 21 and 41.

Generally, Schneider discloses “a wireless, cellular radio link from a base station to a plurality of subscriber stations within a cell reception area.” (Column 3, lines 31-33.) The base station of Schneider, shown in the block diagram of Fig. 1, includes a channel probe 16 which “generates a test signal that can be added to each subscriber channel to enable the destination to determine the strength and character of the signal channel.” (Column 4, lines 51-54.) Further, a data portion of signals received by the base station “represents monitored channel quality of the link. Quality metrics may comprise two components: the signal character of the individual subcarriers, obtained from the channel probe, and the bit error rate performance obtained from the CRC error correction, both monitored at the subscriber premises and transported to the base station.” (Column 5, lines 17-23.) The metrics are subsequently “compared against the quality of service criteria for each subscriber.” (Column 5, lines 38 and 39.) In light of these metrics, transmission of data to the subscribers may then be controlled by the quality of service processor

36 of the base station to meet the requested service criteria. (Column 5, lines 39-49.)

Regarding quality of service, Schneider states that “[a] user, when initially subscribing, can set a quality of service level schedule that reflects *projected uses* for various times.... Quality of service subscription data, including schedules, are stored in the memory of quality of service processor 36. In use, the subscriber’s needs may change, on a temporary or permanent basis. Requests for change may be sent as wireless data signals upon receipt of which processor 36 can override its stored quality of service data for the subscriber.” (Column 8, lines 7-16.)

However, Schneider does not teach the subject matter of current claims 1, 21 and 41. For example, Schneider discusses signals sent from a subscriber station to the base station that indicate signal strength and bit error rates experienced at the subscriber station, as well as messages providing subscription data indicating *proposed* quality of service level schedules requested by users. However, the Assignee asserts that none of this, nor any other part of Schneider, teaches or suggests “channel information describing *actual use* of each of a plurality of channels in the broadband wireless system by each of a plurality of users,” as provided for in claims 1, 21 and 41. Some examples of actual use discussed in the present application include “a per-user breakdown of the time in each channel, bytes transmitted in each channel, and protocol types used in each channel.” (Page 34, lines 26-28.) Thus, the Assignee contends that claims 1, 21 and 41 are allowable in view of Schneider, and such indication is respectfully requested.

#### *Claims 2-20, 22-40 and 42-60*

Claims 2-20 depend from independent claim 1, claims 22-40 depend from independent claim 21, and claims 42-60 depend from independent claim 41, thus incorporating the provisions of their respective independent claims. Therefore, the Assignee asserts that claims 2-20, 22-40 and 42-60 are allowable for at least the reasons provided above with respect to claims 1, 21 and 41, and such indication is respectfully requested.

Given the foregoing discussion, the Assignee respectfully requests that the 35 U.S.C. §§ 102 and 103 rejections of claims 1-60 be withdrawn.

#### Conclusion

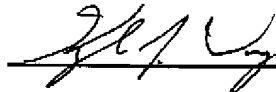
Based on the above remarks, the Assignee submits that claims 1-60 are allowable.

Additional reasons in support of patentability exist, but such reasons are omitted in the interests of clarity and brevity. The Assignee thus respectfully requests allowance of claims 1-60.

The Assignee hereby authorizes the Office to charge Deposit Account No. 21-0765 the appropriate fee under 37 C.F.R. § 1.17(e) for the request for continued examination (37 C.F.R. § 1.114(a)). The Assignee believes no additional fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765.

Respectfully submitted,

Date: 10/15/06



**SIGNATURE OF PRACTITIONER**

Kyle J. Way, Reg. No. 45,549

Setter Roche LLP

Telephone: (720) 562-2283

E-mail: kyle@setterroche.com

**Correspondence address:**

**CUSTOMER NO. 28004**

Attn: Harley R. Ball

6391 Sprint Parkway

Mailstop: KSOPHT0101-Z2100

Overland Park, KS 66251-2100